

1 WEST VALLEY CITY, UTAH

2 ORDINANCE NO. _____

3 Draft Date: 4/9/2009 _____

4 Date Adopted: _____

5 Date Effective: _____

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7 AN ORDINANCE ENACTING CHAPTER 9 OF TITLE 21 OF
8 THE WEST VALLEY CITY MUNICIPAL CODE TO ENACT AN
9 ORDINANCE DEFINING GAMBLING AND MAKING
10 GAMBLING UNLAWFUL IN WEST VALLEY CITY.
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12 WHEREAS, Article VI Section 28 of the Utah Constitution forbids lotteries, games of chance, or
13 gift enterprises; and

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15 WHEREAS, the Utah legislature has passed new legislation re-defining gambling, which does
16 not go into effect until April 1, 2010; and

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18 WHEREAS, the City desires to prohibit gambling within the City consistent with the recent
19 changes enacted by the Utah legislature prior to April 10, 2010; and

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21 NOW, THEREFORE, BE IT ORDAINED by the City Council of West Valley City, Utah, as
22 follows:
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24 Section 1. Enactment. Chapter 9 of Title 21 of the West Valley City Municipal Code is
25 hereby enacted to read as follows:
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27 TITLE 21
CRIMINAL CODE

28 Chapters:

- 29 21-1 Criminal Offenses – General Provisions
30 21-2 Distribution of Sex Paraphernalia to Minors Prohibited
31 21-3 Contempt of Court
32 21-4 Harmful Weapons and Projectiles
33 21-5 Alteration of Identification Numbers
34 21-6 Miscellaneous Offenses
35 21-7 Juvenile Curfews
36 21-8 Repealed
37 21-9 Gambling

38 CHAPTER 21-9
39 GAMBLING
40

41 Sections:

- 42 21-9-101. Gambling Prohibited.
43 21-9-102. Definitions.
44 21-9-103. Gambling Promotion.
45 21-9-104. Possession of a Gambling Device or Record.

46 21-9-101. GAMBLING PROHIBITED.
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- (1) A person is guilty of gambling if that person:
- (a) participates in gambling;
 - (b) knowingly permits any gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or
 - (c) knowingly allows the use of any video gaming device that is:
 - (i) in any business establishment or public place; and
 - (ii) accessible for use by any person within the establishment or public place.
- (2) Gambling is a class B misdemeanor.

21-9-102. DEFINITIONS. As used in this part:

- (1) (a) "Fringe gambling" means any gambling, lottery, or video gaming device which is:
- (i) given, conducted, or offered for use or sale by a business in exchange for anything of value; or
 - (ii) given away incident to the purchase of other goods or services.
- (b) "Fringe gambling" does not include a gambling, lottery, video gaming device, or other promotional activity which is clearly occasional and ancillary to the primary activity of the business.
- (2) (a) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome:
- (i) is based upon an element of chance; and
 - (ii) is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome.
- (b) "Gambling" includes a lottery and fringe gambling.
- (c) "Gambling" does not include:
- (i) a lawful business transaction; or
 - (ii) playing an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.
- (3) "Gambling bet" means money, checks, credit, or any other representation of value.
- (4) "Gambling device or record" means anything specifically designed for use in gambling or used primarily for gambling.
- (5) "Gambling proceeds" means anything of value used in gambling.
- (6) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.
- (7) "Video gaming device" means any device that possesses all of the following characteristics:
- (a) a video display and computer mechanism for playing a game;
 - (b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;
 - (c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;
 - (d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or risking of a greater amount of money, tokens, or credits:

- (i) does not significantly extend the length of play time of any single game;
and
(ii) provides for a chance of greater return of credits, games, or money; and
(e) an operating mechanism that requires inserting money, tokens, or other valuable consideration in order to function.

21-9-103. GAMBLING PROMOTION.

(1) A person is guilty of gambling promotion if he derives or intends to derive an economic benefit other than personal winnings from gambling and:

- (a) he induces or aids another to engage in gambling; or
(b) he knowingly invests in, finances, owns, controls, supervises, manages, or participates in any gambling.

(2) Gambling promotion is a class B misdemeanor.

21-9-104. POSSESSING A GAMBLING DEVICE OR RECORD.

(1) A person is guilty of possessing a gambling device or record if he knowingly possesses it with intent to use it in gambling.

(2) Possession of a gambling device or record is a class B misdemeanor.

Section 2. Repealer. Any provision of the West Valley City Municipal Code found to be in conflict with this Ordinance is hereby repealed.

Section 3. Severability. If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

Section 4. Effective Date. This Ordinance shall take effect immediately upon posting in the manner required by law.

PASSED and APPROVED this _____ day of _____, 2009.

WEST VALLEY CITY

MAYOR

ATTEST:

CITY RECORDER